

**PT 02-27**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**MENNONITE SERVICE ADVENTURE  
UNIT,**

**APPLICANT**

**v.**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**No: 00-PT-0022 (Springfield)**

**Real Estate Tax Exemption**

**For 1999 Tax Year**

**P.I.N. 42-20-12-303-017**

**Champaign County Parcel**

**Kenneth J. Galvin**

**Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Mr. Lennie Heiser, on behalf of the Applicant.

**SYNOPSIS:**

This proceeding raises the issue of whether the subject property, identified by Champaign County Parcel Index Number 42-20-12-303-017 (hereinafter the “subject property”) qualifies for exemption from 1999 real estate taxes under 35 ILCS 200/15-40, which exempts, “[a]ll property used exclusively for religious purposes.”

The controversy arises as follows: On November 22, 1999, The Mennonite Service Adventure Unit (hereinafter the “Applicant”) filed a Real Estate Exemption Complaint for the property with the Board of Review of Champaign County (hereinafter the “Board”). Dept. Ex. No. 1. The Board reviewed the Applicant’s complaint and

subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that a full year exemption be granted. Dept. Ex. No. 1.

On March 16, 2000, the Department rejected the Board’s recommendation finding that the subject property was not in exempt ownership or use during 1999. Dept. Ex. No. 2. On April 14, 2000, the Applicant filed a timely request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on March 4, 2002. Following submission of all evidence and a careful review of the record, it is recommended that the subject property be granted an exemption for the 1999 tax year.

**FINDINGS OF FACT:**

1. Dept. Ex. Nos. 1 and 2 establish the Department’s jurisdiction over this matter and its position that the subject property was not in exempt ownership or use in 1999.
2. The Mennonite Church was organized in Europe approximately 500 years ago and members have migrated to the United States over the past 200 years. The Church has a history of simple living and follows Jesus Christ and his teachings. Mennonites are pacifists and believe that people should not kill and should not go to war to kill. Tr. pp. 10-12.
3. Mennonite volunteer service was instituted in response to the Church’s strong stand on peace and objection to war. Volunteers would traditionally apply for conscientious objector status and enter a program of serving society for two years through the Mennonite Church. Tr. pp. 13-14.
4. The Mennonite Service Adventure Program (hereinafter the “Program”) is supervised by the Mennonite Board of Missions located in Elkhart, Indiana. Its purpose is to

provide young adults, ages 18-20, with “an adventure in service, learning and spiritual growth.” The Board of Missions interviews students, usually just out of high school, and approves them for the Program. The Program in Champaign, 1 of 11 Programs across the United States and Canada, is sponsored by The East Bend Mennonite Church of Fisher, Illinois and The First Mennonite Church of Champaign-Urbana. Tr. pp. 5-6; Applicant’s Ex. No. 3.

5. The Program lasts 10½ months and volunteers usually work 35-40 hours per week. Volunteers and their leaders are required to live in the residence on the subject property while in the Program. Tr. pp. 6, 8.
6. In the 1999 tax year, volunteers in the Program worked in the following services: “Ten Thousand Villages,” a chain of stores run by the Mennonite Central Committee, providing income for third world artisans by selling their handicrafts; day care for low income families from economically depressed homes; day supervisor and maintenance worker at “The Center for Women in Transition” which provides temporary housing for women and children who are without a home; administrative assistant and after-school aide for “The Urban League of Champaign” which assists African-Americans in the achievement of economic and social equality through programs like home weatherization, energy assistance, tutoring and job readiness. Tr. pp. 7-8; Applicant’s Ex. Nos. 1 and 2.
7. Two Programs were in operation during the tax year at issue: one Program starting September, 1998 to July, 1999 and a second starting September, 1999 to April 30, 2000. During the summer months, the residence was used by youth groups sent by

the Mennonite Board of Missions, who work on a service project for a short time period. Tr. p. 14; Applicant's Ex. No. 2.

8. All volunteers live rent-free in the residence. Some volunteers were given payments for their service, and these payments were turned back to the residence for living expenses. The residence was also supported by donations from the volunteers' home church congregations and local sponsoring churches. Monthly expenses for the residence included mortgage payments, utilities, food, and household supplies. Each volunteer is given a \$40/month stipend. Tr. pp. 6, 15-16; Applicant's Ex. No. 3.
9. In addition to their service activities, volunteers must share in the duties of maintaining the residence and preparing meals, join in a learning experience in the residence one evening per week, participate in Bible studies in the residence, join in worship time in the residence one evening per week, participate in weekly church activities and work as a team at various other service opportunities. Tr. p. 8; Applicant's Ex. Nos. 3, 9.
10. Volunteers in the Program must commit to live simply. Guidance is provided by household leaders and the Program includes study and reflection, both as a group and as an individual. Volunteers are required to keep a journal of their daily activities, how they are getting along with others and what they are learning from Bible study. Volunteers have weekly meetings in the residence with their leaders to discuss the journals. Tr. pp. 22-23; Applicant's Ex. No. 9.
11. On August 12, 1994, the subject property was conveyed to a land trust with the Champaign National Bank as Trustee. According to the trust, the property is held for the "ultimate use and benefit" of the First Mennonite Church of Champaign-Urbana

(63%) and East Bend Mennonite Church, Fisher (37%). Tr. pp. 16-19; Applicant's Ex. Nos. 6, 7, 8, and 12.

### **CONCLUSIONS OF LAW:**

An examination of the record establishes that the Applicant has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting the subject property from real estate taxes for the 1999 tax year. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 ILCS 200/1-3 *et seq.* The provisions of that statute which govern the disposition of the instant proceeding are found in Section 200/15-40, which states as follows:

All property used exclusively for religious purposes, or used exclusively for schools and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents, and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents, and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Prior to 1909, the law required that religious property exemptions would be granted only if the party using the property for religious purposes also owned the property. People ex rel. Bracher v. Salvation Army, 305 Ill. 545 (1922). However, this is no longer the case because statutory changes have eliminated the ownership requirement. *Id.* Evidence was presented at the evidentiary hearing to show that the subject property was held in trust for the “ultimate use and benefit” of the two Mennonite churches that sponsor the Program in Champaign. Applicant’s Ex. Nos. 6, 7, 8 and 12. The only issue to be decided is whether the subject property was actually and exclusively used for religious purposes in 1999.

Property satisfies the exclusive-use requirement of the property tax exemption statutes if it is primarily used for the exempted purpose, even though it may also be used for a secular or incidental purpose. McKenzie v. Johnson, 98 Ill. 2d 87, 98 (1983). In MacMurray College v. Wright, 38 Ill. 2d 272, 278 (1967), the Illinois Supreme Court delineated the following standard for determining whether “staff housing facilities” should be exempt from property taxation: “Exemption will be sustained if it is established that the property is primarily used for purposes which are reasonably necessary for the accomplishment and fulfillment of the [religious] objectives, or efficient administration of the particular institution.”

Illinois courts have interpreted the ‘reasonably necessary’ language used in MacMurray College and have held that residential property satisfies the primary purpose test only if one of two conditions is met:

- (1) the resident-employee performs an exempt function, such as educational or religious duties, and is required by those exempt duties to live in the residence; or (2) the resident-employee performs his duties in furtherance of the institution’s exempt purpose in the building.

Lutheran Ch. & Fam. Serv. v. Dep’t. of Rev., 160 Ill. App. 3d 420 (2d Dist. 1987).

Applying the above standards, the court denied an exemption for a residence used by the staff of a religious child care institution because no educational activities were performed in the residence and the staff members were not required to live there. *Id.* Similarly, in Benedictine Sisters v. Dep’t. of Revenue, 155 Ill. App. 3d 325, 329 (2d Dist. 1987), the court denied an exemption for the convent’s caretakers’ residences finding that the residences did not meet either of the above tests, “as the caretakers are not performing any religious duties and as no religious activities are carried on in the residences.” On

the other hand, in Evangelical Alliance Mission v. Dep't. of Revenue, 164 Ill. App. 3d 431, 444 (2d Dist.1987), the court found an apartment building on a parcel adjacent to the mission's headquarters used to house missionaries home on furlough from foreign assignments to be exempt because the building reasonably and substantially facilitated the aims and goals of the religious ministry. In Illinois Conference v. Dep't. of Revenue, 165 Ill. App. 3d 200, 203 (3d Dist. 1988), the court exempted the residence of a caretaker located within the confines of an outdoor religious camp because the parcel was "subject to consistent and considerable religious use and programming."

Testimony at the evidentiary hearing indicated that the "main service" of the Mennonite Service Adventure Program was to benefit the students, "teaching them how to grow together, live together in a community on a religious behalf." Tr. p. 24. The record demonstrates that the volunteers who live in the residence on the subject property are required to live there as part of their participation in the Program. Tr. p. 6. There is "consistent and considerable" religious activity in the residence. The volunteers take part in required Bible studies in the residence. Tr. p. 8. The Program includes study and reflection, both as a group and as individuals. Applicant's Ex. No. 9. Volunteers are required to keep a journal of their daily activities, including entries about their communal living and what they are learning from Bible study. Volunteers have weekly meetings with their leaders in the residence to discuss the journals. Tr. pp. 22-23.

While residing in the residence, the volunteers participate in social service-related jobs and get involved in a local Mennonite Congregation. Applicant's Ex. No. 9. If the volunteers are paid for their jobs, they must turn the payment back to the residence. Tr. p. 6. Based on the testimony and evidence, I have concluded that the residents perform

an exempt function while residing on the subject property. Additionally, since the Mennonite Church sponsors the program of serving society because of its strong belief in pacifism and objection to war, the residence reasonably and substantially facilitated the aims and goals of the Church. The record demonstrates that both conditions of Lutheran are met and therefore, the subject property was primarily used for religious purposes in 1999.

WHEREFORE, for the reasons stated above, it is recommended that the subject property, identified by Champaign County Parcel Index. No. 42-20-12-303-017, be granted an exemption from property tax for the 1999 tax year.

ENTER:

---

Kenneth J. Galvin  
Administrative Law Judge

April 1, 2002